

Notice of Allowability

Application No.

09/558,945

Examiner

JAGDISH PATEL

Applicant(s)

KEPECS, JONATHAN

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/29/06.
2. ☒ The allowed claim(s) is/are 1-17, 19-27 and 37-48.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

1. This communication is in response to amendment filed 8/29/06.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/6/05 has been entered.

Response to Amendment

3. Claims 1-17, 19-27, 37-48 are pending and have been allowed.

Reasons for Allowance

4. The following is an examiner's statement of reasons for allowance:

The claimed inventions pertain to on line promotional discounts to identified consumers. In particular extending the expiration of the promotional discounts to the identified consumers.

The following references are deemed closest prior art.

Day et al. (US Pat. 5,857,175) Teaches a method of offering promotion wherein selected merchandise items are promoted by posting a notice of discounts on a network accessible from the location selling the selected merchandise. Day fails to teach any aspect of extending the

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discounts to a consumer without the consumer attempting to purchase an item offered at a discount.

Kremer (Mail order Selling Made Easier), Ad-lib Publications 1093 teaches a promotional discounts on items for sale to consumers. Kremer teaches promoting a selected item with a discount. The discount on the selected item is withdrawn after a predetermined deadline or offer expiration date.

PR Newswire article Caldor Announces Agreement with New York State Attorney General, dated January 11, 1993 teaches well known method of extending promotion by a merchant offering a rain-check for an advertised merchandise offered at a special or discounted price when the merchandise is not available to a customer within the promotional time period.

5. Claims 1-17, 19-27, 37-48 are allowed because the closest prior art of record as discussed above fails to teach or suggest a method of extending promotional discounts on items for sale to consumers comprising the following features.

The exemplary references of Kremer and PR Newswire teaches a well known paper based method of extending promotion requires that the customer be present in a brick and mortar (i.e. physical) store where he finds that the promoted item is not available in the store during the promotional period and then request a rain check from the store official. The promotion or special price is extended only if the customer completes these steps. If one is to implement equivalent process on the network such as the Internet, the merchant must specify the availability of the item of consumer's interest and only if the consumer indicates that he is interested in purchase of the item. Hypothetically, the merchant may list certain items, which are promoted to

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the identified consumer, and are out of supply and offer the consumer a “rain check” or equivalent document over the network. However, the offering of the rain check over the network would not be possible until the merchant determines that the consumer wishes to purchase the item. The instant claim recites the limitation that the promotional price is extended proactively by the merchant without the consumer even attempting to purchase the item and merely by acknowledging that he has received the promotional offer prior to the expiration. The examiner has, therefore, concluded that the prior art of the prior art of record fails to teach or suggest the feature of promoting an item to an identified (or selected) consumer, wherein the promotion is valid for a predetermined time period and then extending the promoted item beyond the predetermined time period based solely upon the acknowledgement of the promotion by the identified consumer, i.e. based solely upon notification to the merchant that he has received the promotional offer.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

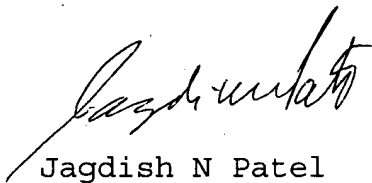
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748. The examiner can normally be reached on 800AM-600PM M-Tu and Th. On Fridays the examiner can be reached at (301) 455-0510.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 517-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Jagdish N Patel', is written over a horizontal line.

Jagdish N Patel

Primary Examiner, AU 3693